

By: Zaffirini

S.B. No. 1710

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to applications for the complete restoration of a ward's  
3 capacity or modification of a guardianship.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section [1202.051](#), Estates Code, is amended to  
6 read as follows:

7 Sec. 1202.051. APPLICATION AUTHORIZED. (a)  
8 Notwithstanding Section [1055.003](#), a [A] ward or any person  
9 interested in the ward's welfare may file a written application  
10 with the court for an order:

11 (1) finding that the ward is no longer an  
12 incapacitated person and ordering the settlement and closing of the  
13 guardianship;

14 (2) finding that the ward lacks the capacity, or lacks  
15 sufficient capacity with supports and services, to do some or all of  
16 the tasks necessary to provide food, clothing, or shelter for  
17 himself or herself, to care for the ward's own physical health, or  
18 to manage the ward's own financial affairs and granting additional  
19 powers or duties to the guardian; or

20 (3) finding that the ward has the capacity, or  
21 sufficient capacity with supports and services, to do some, but not  
22 all, of the tasks necessary to provide food, clothing, or shelter  
23 for himself or herself, to care for the ward's own physical health,  
24 or to manage the ward's own financial affairs and:

1 (A) limiting the guardian's powers or duties; and

2 (B) permitting the ward to care for himself or  
3 herself, make personal decisions regarding residence, or manage the  
4 ward's own financial affairs commensurate with the ward's ability,  
5 with or without supports and services.

6 (b) If the guardian of a ward who is the subject of an  
7 application filed under Subsection (a) has resigned, was removed,  
8 or has died, the court may not require the appointment of a  
9 successor guardian before considering the application.

10 SECTION 2. Section 1202.054, Estates Code, is amended by  
11 adding Subsections (b-1) and (b-2) and amending Subsection (c) to  
12 read as follows:

13 (b-1) A written letter or certificate from a physician as  
14 described by Section 1202.152 is not required before the  
15 appointment of the court investigator or a guardian ad litem under  
16 Subsection (b).

17 (b-2) Not later than the 30th day after the date the court  
18 receives an informal letter from a ward under Subsection (a), the  
19 court shall send the ward a letter by certified mail:

20 (1) acknowledging receipt of the informal letter; and

21 (2) advising the ward of the date on which the court  
22 appointed the court investigator or guardian ad litem as required  
23 under Subsection (b) and the contact information for the court  
24 investigator or guardian ad litem.

25 (c) The court investigator or guardian ad litem shall file  
26 with the court and provide to the ward a report of the  
27 investigation's findings and conclusions. If the court

1 investigator or guardian ad litem determines that it is in the best  
2 interest of the ward to terminate or modify the guardianship, the  
3 court investigator or guardian ad litem shall file an application  
4 under Section 1202.051 on the ward's behalf.

5 SECTION 3. (a) The changes in law made by this Act to  
6 Section 1202.051, Estates Code, apply to an application for the  
7 complete restoration of a ward's capacity or modification of a  
8 guardianship filed before, on, or after the effective date of this  
9 Act.

10 (b) The changes in law made by this Act to Section 1202.054,  
11 Estates Code, apply only to a request by informal letter for a court  
12 order that is delivered on or after the effective date of this Act.  
13 A request by informal letter for a court order that is delivered  
14 before the effective date of this Act is governed by the law in  
15 effect on the date the informal letter was delivered, and the former  
16 law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2017.